

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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2023 MAY 23 AM 11:23

NOEL BROWN,

Plaintiff

Case No.1:18-cv-03287-JPO-SLC

-against-

DECLARATION

ANTHONY KEMPINSKI, et al.,

Defendants

As an plaintiff in the above-identified civil action, I declare as follows;

1. If an appeal court remands to return a case, by order of said appellate court, for further action. The case is then deemed open as of that remand.
2. A timely motion filed within the court in which the case was remanded to therefore, should not be denied as procedurally improper.
3. A remanded case, in effect null and void any prior dismissal of a case.
4. Therefore, it is procedurally improper, for the court to deny a timely motion for summary judgment, before an amended judgment is entered.
5. Whereby, plaintiff's motion should be re-open and properly adjudicated.
6. To not reconsider such an abuse of discretion, or abuse of process, would undermine the people's confidence in our adverse system of justice, and be presumed as prejudice intent and motive. *PER SE.*
7. I believe that I, am entitled to make a motion on the order of remand of the case for further actions.
8. I acknowledge the duty of the District Court to Amend the Judgment. HOWEVER, plaintiff's motion for summary judgment was timely, and

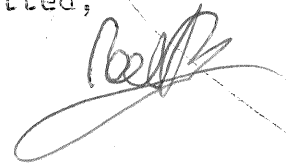
therefore should be adjudicated before said amended judgement.

9. It is for all the above reasons that I respectfully request for reconsideration en banc.

10. I, Noel Brown, declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable pursuant to 28 U.S.C. §1746, under penalty of perjury, and that such willful false statements may jeopardize the validity of the application, which this verified statement is directed. Thank You.

05/16/2023

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Noel Brown', is written over a horizontal line.

DECLARATION OF SERVICE

Noel Brown, pursuant to 28 U.S.C. §1746, declares under penalty of perjury as follows: that on May 16, 2023, he mailed the attached motion and declaration to defendants via the U.S. Postal Service to the following address:

Zachary Kalmbach, Assistant Corporation Counsel Special Federal Litigation Division Corporation Counsel of the City of New York 100 Church Street Room 3-221 New York N.Y. 10007.

I declare under penalty of perjury that the foregoing is true and correct.

Yours Truly,

A handwritten signature in dark ink, appearing to be "Noel Brown", written over a horizontal line.